

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

|                                       |   |                  |
|---------------------------------------|---|------------------|
| <b>WAYNE ELLIOTT WILKERSON,</b>       | ) |                  |
|                                       | ) |                  |
| <b>Petitioner,</b>                    | ) |                  |
|                                       | ) |                  |
| <b>v.</b>                             | ) | <b>1:07CV802</b> |
|                                       | ) |                  |
| <b>THEODIS BECK, Secretary of the</b> | ) |                  |
| <b>Department of Correction,</b>      | ) |                  |
|                                       | ) |                  |
| <b>Respondent.</b>                    | ) |                  |

**O-R-D-E-R**

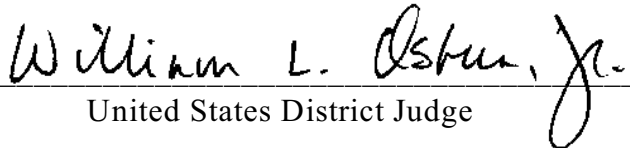
The Recommendation of the United States Magistrate Judge was filed with the court in accordance with 28 U.S.C. § 636(b) and, on March 10, 2008, was served on the parties in this action. Petitioner objected to the Recommendation on March 24, 2008, and supplemented his objection on May 1, 2008<sup>1</sup>.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court therefore adopts the Magistrate Judge's recommendation.

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<sup>1</sup>The file stamp of Petitioner's supplement (Doc. No. 16) indicates the document was filed "May 01, 2005" but the certificate of service is dated "April 28, 2008." The ECF stamp shows a date of "05/01/2008" as the date the pleading was entered into the system. This court therefore finds the supplement (Doc. No. 16) was filed May 1, 2008.

**IT IS THEREFORE ORDERED** that Respondent's motion to dismiss [Docket No. 4] be **GRANTED**, that Petitioner's petition for writ of habeas corpus [Docket No. 1] be **DENIED**, and that this action be dismissed with prejudice. A judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

  
United States District Judge

Date: June 20, 2008